

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of COURTNEY AMBER SCOTT,
REGINA JAYA SCOTT, JASON JOSEPH WIDEMAN,
and ELIZABETH CAROLYN BROWN, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

STEPHANIE ANDREA SCOTT,

Respondent-Appellant,

and

MYRON PAGE, ANTHONY WIDEMAN, and
DEMETRIUS C. BROWN,

Respondents.

UNPUBLISHED

October 18, 2007

No. 276659

Wayne Circuit Court

Family Division

LC No. 03-416480-NA

Before: Murphy, P.J, and Smolenski and Schuette, JJ.

PER CURIAM.

Respondent, Stephanie Scott, appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j). We affirm.

I. FACTS

Respondent¹ has four minor children, Courtney Scott, Regina Scott, Jason Wideman, and Elizabeth Brown. Courtney, Regina, and Jason first became court wards when a temporary custody petition was authorized on April 18, 2003, alleging physical abuse of respondent's oldest, now adult, child. The wardship was terminated on December 9, 2003, with the trial court

¹ Respondents Page, Wideman, and Brown are not parties to this appeal. Therefore, all references to "respondent" refer to Stephanie Scott only.

citing respondent's significant progress and effort toward completing the court-ordered treatment plan. The three children, and 4-month-old Elizabeth, again came to the attention of the Department of Human Services (DHS) in November of 2004. DHS received multiple referrals alleging that respondent was abusing drugs and neglecting to provide medical care to Jason. On January 14, 2005, a petition was authorized, and all four children were removed from respondent's home for placement in the most family-like placement available. As the case proceeded, supplemental petitions were authorized that included allegations of domestic violence.

In an attempt to address the family's needs, respondent was presented with a court-ordered treatment plan. The two most pertinent requirements of the treatment plan—and the two that respondent consistently failed to meet—concerned domestic violence and substance abuse. The treatment plan also required respondent to maintain adequate housing, to have a legal income, and to attend all court hearings and all scheduled visitations with the children.

The domestic violence in this case was extremely severe. Respondent appeared in court, and for appointments with DHS, with bruises on her face; she was beaten with a brick until her jaw broke in two places; and she was hospitalized with a ruptured spleen as the result of another beating. Respondent's abuser was always the same; it was Elizabeth's father and respondent's domestic partner, Demetrious Brown. The substance abuse was also severe. Respondent appeared in court drunk, she admitted to using crack cocaine, she provided multiple positive drug screens, and Elizabeth was born with cocaine in her system. To address the substance abuse issues, the treatment plan required respondent to attend in-patient substance abuse treatment, complete the recommended after-care program, and provide random drug and alcohol screens; to address the domestic violence, it required her to attend domestic violence classes and individual counseling. For over 19 months, she consistently failed to meet these requirements. At numerous hearings, witnesses testified that respondent was not in compliance with the treatment plan. So the trial court ordered DHS to file a supplemental petition seeking termination of parental rights, and a trial date was set.

The termination trial started on September 19, 2006, but because of multiple delays, did not conclude until February 1, 2007. During the trial, DHS presented evidence that respondent had complied with some requirements of the treatment plan but was not in overall compliance. Respondent had complied with several requirements that were never issues in the case. For example, she had adequate housing and a legal income through social security disability payments. But she either had not complied with, or had failed to gain any benefit from, the most pertinent requirements. She completed in-patient substance abuse treatment, but failed to complete the necessary after-care and did not provide drug and alcohol screens as required. She started domestic violence classes, but she was dropped for lack of attendance. DHS also showed that as the termination trial proceeded, when respondent was acutely aware that she was in danger of having her parental rights terminated, the pattern of substance abuse and domestic violence continued. In December 2006, respondent provided a drug screen that was positive for opiates, and in January of 2007, just days before the final day of trial, she was hospitalized and Brown was arrested for domestic violence.

II. TERMINATION OF PARENTAL RIGHTS

A. Standard of Review

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). This Court reviews the trial court's decision to terminate parental rights under the clearly erroneous standard. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). A finding is clearly erroneous if, even though there is evidence to support it, the reviewing court on the entire record is left with a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

B. Analysis

The trial court did not err in finding that the statutory grounds required under MCL 712A.19b(3)(c)(i), (g) and (j)² were established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, *supra* at 365.

Under MCL 712A.19b(3)(c)(i), the trial court may terminate parental rights where it finds that the “conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child’s age.” In this case, respondent’s parental rights were terminated because she continued to abuse substances and remained in a domestic environment that was extremely violent. Respondent had 19 months before the termination trial began to address these conditions and, because of multiple delays, she had an additional 3 months during the trial. She did not address the conditions; instead, she continued to abuse substances, as evidenced by a positive drug screen in December of 2006 and was hospitalized as the result of domestic violence in January of 2007. Therefore, the trial court did not clearly err in terminating respondent’s parental rights under MCL 712A.19b(3)(c)(i).

Further, MCL 712A.19b(3)(g) allows termination of parental rights when “[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child’s age.” In this case, the trial court acknowledged that respondent had tried but had failed to gain the necessary benefit from her efforts. Respondent completed in-patient substance abuse treatment, but she failed her after-care program and then provided a positive drug screen. She attended some domestic violence classes, but she remained in a violent domestic environment through the last day of the termination trial. “[I]t is not enough to merely go through the motions; a parent must benefit from the services offered so he or she can improve parenting skills to the point where the children would no longer be at risk in the parent’s custody.” *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005). The trial court found that respondent tried but did not succeed—she did not benefit from the services. Accordingly, the trial court did not err in terminating respondent’s parental rights under MCL 712A.19b(3)(g).

² The trial court did not terminate respondent’s parental rights under MCL 712A.19b(3)(a)(ii). Rather, the trial court’s ruling clearly states that this statutory provision applied only to the parental rights of the absent fathers.

Finally, MCL 712A.19b(3)(j) allows termination of parental rights when “[t]here is a reasonable likelihood, based on the conduct or capacity of the child’s parent, that the child will be harmed if he or she is returned to the home of the parent.” In this case, the trial court noted that respondent continued to abuse substances and remained in a violent relationship with Brown, which raised a reasonable likelihood that the children would be harmed. Therefore, the trial court did not err in terminating respondent’s parental rights under MCL 712A.19b(3)(j).

III. BEST INTERESTS OF THE CHILDREN

A. Standard of Review

Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court must terminate the parental rights unless it finds from all of the evidence presented that termination is clearly not in the child’s best interests. MCL 712A.19b(5); MCR 3.977(G)(3); *Trejo, supra* at 351. The trial court’s decision on the best interests question is reviewed under the clearly erroneous standard. MCR 3.977(J); *Trejo, supra* at 356.

B. Analysis

The evidence did not show that termination of respondent’s parental rights was clearly not in the best interests of the children. MCL 712A.19b(5); *Trejo, supra* at 351. Respondent testified that she had a “fine, wonderful” relationship with her children, but provided no other evidence to rebut the trial court’s finding, which was based on a consideration of the entire record, that termination of her parental rights was in the children’s best interests. Respondent also failed, on appeal, to raise the best interests of the child argument—arguing instead that the trial court abused its discretion by terminating respondent’s parental rights after failing to find the necessary statutory grounds for termination by clear and convincing evidence. This argument fails in two ways. First, because the trial court did find that the requisite statutory grounds for termination had been met by clear and convincing evidence and stated so in the record. Second, because once the requisite statutory grounds for termination are found, the trial court’s remaining discretion is in finding whether termination is clearly not in the children’s best interests. Therefore, the trial court did not abuse its discretion and did not clearly err by finding that termination of respondent’s parental rights was in the best interests of the children.

Affirmed.

/s/ William B. Murphy
/s/ Michael R. Smolenski
/s/ Bill Schuette